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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199494
Party	Defendant True Food, LLC
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Date	05/27/2011
Attachments	Answer to Opposition(TRUE THE BEST FOOD FOR YOUR DOG, HONEST.).pdf (5 pages)(124055 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 85/193,728
Published in the *Official Gazette* on April 19, 2011

Darford Industries Ltd.

Opposer,

v.

Opposition No. 91199494

True Food, LLC

Applicant.

ANSWER TO OPPOSITION

Dear Sir or Madam:

Applicant, True Food, LLC (hereinafter “True Food”), the owner of trademark TRUE THE BEST FOOD FOR YOUR DOG, HONEST., in response to the Opposition filed by Opposer, Darford Industries Ltd. (hereinafter “Darford”), with the Trademark Trial and Appeal Board and mailed to Applicant on April 19, 2011, answers the Opposition as follows:

Applicant denies generally and specifically, each and every allegation stated against them in the Opposition, and the whole thereof, and denies that the trademark at issue has been the subject of confusion amongst the public, and parties with expertise in the field in which the goods are provided.

1. Answering Paragraph 1 of the Opposition: Applicant is without sufficient information to form a belief to the allegation in paragraph 1, and, based thereon, denies any and all allegations set forth in paragraph 1 of the Opposition.

2. Answer to Paragraph 2 of the Opposition: Applicant is without sufficient information to form a belief to the allegations in paragraph 2, and, based thereon, denies any and all allegations set forth in paragraph 2 of the Opposition.

3. Answer to Paragraph 3 of the Opposition: Applicant is without sufficient information to form a belief to the allegations in paragraph 3, and, based thereon, denies any and all allegations set forth in paragraph 3 of the Opposition.

4. Answer to Paragraph 4 of the Opposition: Applicant is without sufficient information to form a belief as to the allegations in paragraph 4, and, based thereon, denies any and all allegations set forth in paragraph 4 of the Opposition.

5. Answer to Paragraph 5 of the Opposition: Applicant does not dispute the information provided concerning the Opposer's ownership of U.S. Registration No.: 3,474,006 for the mark TRUE at this time. If in the course of discovery information to the contrary is uncovered, Applicant reserves its rights to dispute the information in paragraph 5 at such time. Except as otherwise expressly set forth above in this paragraph, Applicant denies the allegations of paragraph 5 of the Opposition.

6. Answer to Paragraph 6 of the Opposition: Applicant does not dispute the information provided concerning the fact that a true and correct copy of U.S. Registration No. 3,474,006, taken from the USPTO TARR database, is attached hereto as Exhibit A. Except as otherwise expressly set forth above in this paragraph, Applicant denies the allegations of paragraph 6 of the Opposition.

7. Answer to Paragraph 7 of the Opposition: Applicant is without sufficient information to form a belief to the allegations in paragraph 7, and, based thereon, denies any and all allegations set forth in paragraph 7 of the Opposition.

8. Answer to Paragraph 8 of the Opposition: Applicant admits to having filed an intent-to-use application for the trademark TRUE THE BEST FOOD FOR YOUR DOG, HONEST. for use in connection with "dog food," in International Class 31.

9. Answer to Paragraph 9 of the Opposition: Applicant disputes the information concerning Opposer's U.S. Registration No.: 3,476,006. Applicant submits that U.S. Registration No.: 3,476,006 is for the mark BUSINESS REARVIEW MIRROR owned by Morgan Stanley & Co. Incorporated. Applicant also submits that U.S. Serial No. 78/930,031 is for the mark H&H Health & Happiness (Stylized) and Design owned by Tronjen Technology, Inc. Based on the records of the USPTO, Opposer

does not appear to have any rights to either of these registrations. Therefore, Applicant denies the allegations of paragraph 9 of the Opposition.

10. Answer to Paragraph 10 of the Opposition: Applicant is without sufficient information to form a belief to the allegations in paragraph 10, and, based thereon, denies any and all allegations set forth in paragraph 10 of the Opposition.

11. Answer to Paragraph 11 of the Opposition: Applicant denies any and all allegations set forth in paragraph 11 of the Opposition.

12. Answer to Paragraph 12 of the Opposition: Applicant denies any and all allegations set forth in paragraph 12 of the Opposition.

13. Answer to Paragraph 13 of the Opposition: Applicant denies any and all allegations set forth in paragraph 13 of the Opposition.

14. Answer to Paragraph 14 of the Opposition: Applicant denies any and all allegations set forth in paragraph 14 of the Opposition.

15. Answer to Paragraph 15 of the Opposition: Applicant denies any and all allegations set forth in paragraph 15 of the Opposition.

FIRST AFFIRMATIVE DEFENSE

16. Opposer has failed to show any likelihood of confusion created from the use of Applicant's trademark, as determined by the public, as well as individuals within the specific field in which the goods are used.

SECOND AFFIRMATIVE DEFENSE

17. Opposer has failed to state any facts sufficient to bar the registration of Applicant's application.

THIRD AFFIRMATIVE DEFENSE

18. Opposer has failed to show that registration of Applicant's mark would deceive the public as to the source or origin of Applicant's goods or the goods contained in Opposer's registration.

FOURTH AFFIRMATIVE DEFENSE

19. Opposer has failed to show that registration of Applicant's mark would falsely suggest a connection between Applicant's goods or the goods contained in Opposer's registration.

FIFTH AFFIRMATIVE DEFENSE

20. Opposer has exercised bad faith in its negotiations with Applicant by reason of its disregard of Applicant's willingness and express agreement to comply with the demands requested by Opposer in a proposed Consent Agreement.

SIXTH AFFIRMATIVE DEFENSE

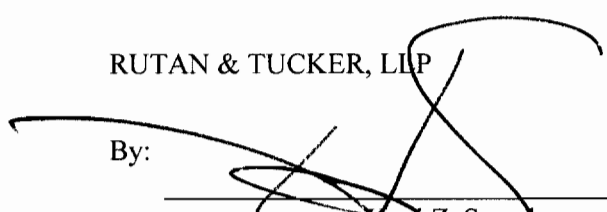
21. Applicant alleges that there may be additional affirmative defenses to the Opposition which are currently unknown to Applicant. Applicant reserves the right to amend this Answer to allege additional affirmative defenses in the event discovery or other information indicates that they are appropriate.

WHEREFORE, Applicant respectfully requests that this Opposition be denied and that the registration sought by Application Serial No. 85/193,728 for the mark TRUE THE BEST FOOD FOR YOUR DOG, HONEST. be allowed to proceed to registration.

Dated: May 26th, 2011

RUTAN & TUCKER, LLP

By:


Ham Z. Sayed
Attorney for Applicant,
True Food, LLC

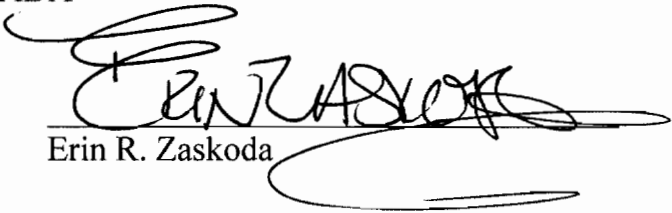
CERTIFICATE OF SERVICE

The undersigned certifies that a true and complete copy of the foregoing **ANSWER TO OPPOSITION**, has been served upon Opposer and Opposer's Attorney on May 27, 2011 by forwarding a copy of same via first class mail, postage prepaid to:

Kevin G. Smith
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W., Suite 800
Washington, D.C. 20037

Darford Industries Ltd.
1150 Kalamalka Lake Road, Suite 100
Vernon, British Columbia, V1T 6V2
CANADA

Dated: May 27, 2011


Erin R. Zaskoda